

# CITY COUNCIL PROCEEDINGS

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## MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, May 1, 2001  
Tuesday, 9:00 A.M.

The City Council met in regular session with Mayor Knight in the Chair. Council Members Brewer, Fearey, Lambke, Martz, Pisciotte, present. \*Council Member Gale absent.

Chris Cherches, City Manager; Gary Rebenstorf, Director of Law; Pat Burnett, City Clerk; present.

The invocation was given by Rev. Bill Wood, St. John Episcopal Church.

The pledge of allegiance to the flag was participated in by the Council Members, staff, and guests.

Minutes -- approved      The minutes of the regular meeting of April 24, 2001, were approved 6 to 0. (Gale absent)

## AWARDS AND PRESENTATIONS

\*Council Member Gale present.

RECOGNITION      President of LaSalle University in Cancun, Mexico, and Student Ambassadors to Cancun, were recognized.

PROCLAMATIONS      Proclamations previously approved were presented.

## PUBLIC AGENDA

Tom Roulston– Ice Sports Center.

Mr. Roulston requested his name be withdrawn from the Agenda.

## NEW BUSINESS

IRB AIRTECHNICS      ISSUANCE OF TAXABLE INDUSTRIAL REVENUE BONDS, SERIES I, 2001, AND SERIES II, 2001 – AIRTECHNICS, INC. (District II)

Allen Bell      Financial Projects Director reviewed the Item.

Agenda Report No. 01-0568

On October 3, 2000, City Council approved a Letter of Intent to issue IRBs in the amount of \$4.3 million and approved a 100% tax exemption for a term of five years, plus an additional five years subject to City Council review, to finance improvements for the benefit of Airtechnics, Inc. Bond proceeds under the letter of intent are to be used to finance the construction of a new manufacturing, warehouse, administrative, and sales facility and the acquisition of equipment and furniture. The new facility will be located at 38th St. North and Webb Road. To accommodate the desired ownership arrangements on the new facilities, Airtechnics has requested that the bonds be split into separate series for the equipment (Series I) and real estate (Series II) portions of the project. The equipment financed

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by the \$825,000 Series I Bonds will be leased to Airtechnics, Inc. The real estate and improvements financed by the \$3,475,000 Series II Bonds will be leased to Mann Properties, L.L.C., for the ultimate beneficial use of Airtechnics, Inc.

Airtechnics, founded in 1957, is a manufacturer and distributor of eletromechanical component parts for the aircraft industries, such as switches, relays and circuit breakers. The company sells its product throughout the United States and overseas. Airtechnics, Inc. has sales offices in California, Florida, Indiana, Texas, New York, England. All manufacturing is done at the Wichita facility.

Airtechnics currently has a total of 107 employees, 75 of which are located in Wichita, and has committed to hire 50 new employees (in Wichita) over the next four years. The new 62,000 SF facility will support consolidation of all Wichita-based operations as well as provide room to support future growth. The new facility will house the administrative and sales offices, warehouse, and manufacturing space.

An analysis of the anticipated uses of Series I and Series II Bond Proceeds is:

## USES OF FUNDS

Construction Costs (Series II)	\$3,410,000
Furnishings, Equipment, Computer Hardware & Software (Series I)	825,000
Issuance Costs (Series II)	<u>65,000</u>
Total Cost of Project:	\$4,300,000

Airtechnics will privately place the Bonds of both Series with INTRUST Bank, N.A., which will also act as Trustee for so long as it continues to hold all the Bonds. Airtechnics has complied with the City's requirements contained in the Standard Letter of Intent Conditions.

Airtechnics, Inc. agrees to pay all costs of issuing the Bonds and the City's \$2,500 annual IRB administrative fee for the term of the Bonds.

Under the City's Business Incentive Policy, Airtechnics, Inc. qualifies for a 100% five-plus-five-year tax exemption on plant and equipment financed with bond proceeds.

Separate Ordinances and Bond Documents needed for each Series of Bonds have been prepared by the firm of Triplett, Woolf & Garretson, which is serving as the City's Bond Counsel in this financing because the City's regular contract Bond Counsel firm has an established attorney-client relationship with Airtechnics, Inc. The City Attorney's Office will review and approve the form of bond documents prior to final issuance of any bonds.

Mayor Knight

Mayor Knight inquired whether anyone wished to be heard and no one appeared.

Motion --

-- carried

Pisciotte moved that the public hearing be closed; the bond documents be approved; the necessary signatures be authorized; and the Ordinances be placed on first reading. Motion carried 7 to 0.

## ORDINANCE

An Ordinance authorizing the City of Wichita, Kansas (the "City"), to issue its Taxable Industrial Revenue Bonds in the aggregate principal amount of \$825,000 for the purpose of providing funds to purchase and install certain machinery and equipment in a manufacturing facility located in the City; prescribing the form and authorizing execution of a trust indenture by and between the City and Intrust Bank, NA of Wichita, Kansas, as Trustee, with respect to the Bonds; prescribing the form and authorizing the execution of a Lease Agreement by and between Airtechnics, Inc., and the City; prescribing the form and authorizing the execution of an easement and agreement by and between Airtechnics, Inc., and the City; approving the form of a guaranty agreement by and between Airtechnics, Inc. and the Trustee; approving the form of an Individual Guaranty Agreement by and

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between Ronald D. Mann and Barbara L. Mann, as individual guarantors, and the Trustee; and authorizing the execution of a Bond Placement Agreement by and between the City, Airtechnics, Inc., the individual guarantors, and Intrust Bank, NA, as purchaser of the Bonds, introduced and under the rules laid over.

## ORDINANCE

An Ordinance authorizing the City of Wichita, Kansas (the "City"), to issue its Taxable Industrial Revenue Bonds in the aggregate principal amount of \$3,475,000 for the purpose of providing funds to acquire certain real property and to construct and equip certain improvements consisting of a new manufacturing facility located in the City; prescribing the form and authorizing execution of a Trust Indenture by and between the City and Intrust Bank, NA, Wichita, Kansas as trustee, with respect to the bonds; prescribing the form and authorizing the execution of a Lease by and between Mann Properties, L.L.C., a Kansas Limited Liability Company, and the City; approving the form of a guaranty agreement by and between Airtechnics, Inc. and the Trustee; approving the form of an individual guaranty agreement by and between Ronald D. Mann and Barbara L. Mann, as individual guarantors, and the Trustee; and authorizing the execution of a Bond Placement Agreement by and between the City, Mann Properties, L.L.C., Airtechnics, Inc., the individual guarantors and Intrust Bank, NA, as purchaser of the Bonds, introduced and under the rules laid over.

## REHAB CODE

### PROPOSED EXISTING BUILDINGS REHABILITATION AND CHANGE OF USE CODE.

Kurt Schroeder

Superintendent of Central Inspection reviewed the Item.

Agenda Report No. 01-0569.

In February and May 2000, a Redevelopment Incentive Task Force Report was presented to the City Council. In May 2000, the City Council authorized staff to proceed with implementation of the programs and strategies outlined in the Report.

In June 2000, staff assembled a large group of local stakeholders to determine what a rehabilitation code for Wichita should include and encompass. This stakeholder meeting involved over 20 representatives of local architectural firms, engineering firms, developers, building owners, building maintenance groups, contractors/builders, building remodelers, rental property owners/managers, neighborhood associations and professional associations. With this valuable stakeholder input in hand, a nationally recognized consultant in the field of historic preservation, adaptive re-use of older buildings and development of rehabilitation construction codes was selected by the City Council on September 12, 2000 to assist in development of this important local document. The consultant is Melvyn Green & Associates, Torrance, CA, working in conjunction with David Hattis, Building Technology, Inc., Washington, D.C.

In February, 2001, a draft of the proposed Rehabilitation Code was provided to the City's Board of Code Standards and Appeals (BCSA) and to various stakeholders. At their meeting on April 2, 2001, the BCSA reviewed a draft of the new code, and recommended that it be forwarded to the City Council for adoption. On April 4, 2001, the original Stakeholders were assembled for a final time to obtain their feedback and input on the proposed new code. The Stakeholders made several minor suggestions (which have since been incorporated into the code), but overwhelmingly voiced their support for the proposed document.

On April 2, 3 and 4, 2001, an overview of the proposed code was presented to all District Advisory Boards. All DABs approved the concept and supported adoption of a Rehabilitation Code for Wichita.

On April 12, 2001, an overview of the proposed Code was presented to Rental Owners, Inc., which was also generally supportive of the proposed code.

## Why is a Rehabilitation Code for Existing Buildings Needed?

- The regulation of construction rehabilitation and repair work in existing buildings, re-use of existing buildings for new uses, and additions to existing buildings are some of the most highly variable parts of the nation's building regulatory system. The major U.S. Model Code groups (ICBO, BOCA and SBCCI and now ICC) have lacked specificity and have differed significantly from one another in the way they address rehabilitation and additions.
- Current model construction codes for new construction do not clearly outline minimum standards or expectations for either remodeling or the adaptive re-use of existing buildings. Much is left to the discretion, judgment and/or interpretation of code officials and building construction plan examiners, making budget planning and consistency of interpretation a problem for developers and builders.
- Unpredictable, disproportionate or unrealistic requirements often become an impediment to the beneficial re-use of the existing building stock.

## What Research and/or Best Practices Have Been Utilized to Develop the Proposed Rehabilitation Code?

- The New Jersey Rehabilitation Sub-Code and Users Guide, considered in most circles to be the premier rehabilitation code in the country, was obtained from the New Jersey Department of Community Affairs, Division of Codes and Standards, and reviewed in depth by staff, with input from local stakeholders and the City's Existing Buildings Code development consultant.
- A report entitled "Innovative Rehabilitation Provisions: A Demonstration of the Nationally Applicable Recommended Rehabilitation Provisions", or NARRP, was ordered from HUD. This report was developed in partnership with the National Association of Home Builders (NAHB), and utilized the New Jersey Rehabilitation Sub-Code as a model to apply standards to an actual major remodeling project on an older building. The NARRP was used by staff and the City's code consultant in development of the proposed Wichita Existing Buildings Code.
- Use of the unpublished edition of the 2000 Edition of the Uniform Code for Existing Buildings, prepared by Melvyn Green & Associates for the International Code Council (ICC). Melvyn Green & Associates is the consultant that has been assisting the City of Wichita in development of a Wichita Existing Buildings Rehabilitation Code.

## What are some of the key concepts included/addressed in the proposed Rehabilitation Code?

- Allows use of existing construction materials to achieve fire-rated separations, corridors, etc. in rehabilitated buildings while maintaining minimum life safety enhancements and standards.
- Allows continued use of materials and installations that are in good condition (electrical wiring, plumbing, mechanical systems, etc.) while maintaining minimum life safety standards.
- Clearly defines and focuses on concept of "work area", applying new construction requirements only to those areas where substantial alteration work ("gutting") occurs.
- Establishes clear thresholds where an entire floor of an existing building or multiple floors of an existing building is/are required to be brought up to more current construction standards.
- Establishes specific, more realistic and readily achievable criteria for Americans with Disabilities Act (ADA) requirements in building remodeling or adaptive re-use of existing buildings.
- Outlines additional alternatives for achieving compliance with building code standards, and establishes different minimum standards for existing buildings (travel distance requirements, stairway widths, rise and run of stair treads, corridor requirements, etc.) while maintaining life safety standards.

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- Introduces concept of “Hazard Categories and Classifications”, whereby “occupancy use group classifications” are categorized. Occupancy use group classifications that are shown to be equal to or less hazardous than the previous building occupancy use group, are allowed to be established in existing buildings WITHOUT requiring upgrade of items such as exits, building maximum height and area, occupancy use separations, corridor ratings, and exterior wall fire ratings. This greatly encourages the “adaptive re-use” of existing buildings for new uses.

There is no cost to the City to if the proposed Code is adopted. However, building owners and developers should realized significant cost savings in both the planning stage and the actual rehabilitation phase of projects that substantially renovate and/or adapt older, existing buildings in Wichita to new uses.

The proposed Wichita Existing Buildings Rehabilitation and Change of Use Code and adopting ordinance have been approved as to form by the City Law Department.

Mayor Knight

Mayor Knight inquired whether anyone wished to be heard.

The following spoke in support of the proposed Ordinance:

Wes Galyon, WABA

David Burk, Market Place Properties

Ken Holmes, Vice President of Rental Owners, Inc.

Frank Shofler, hosing provider

Gary Hefley, rental property business owner

Motion --

-- carried

Fearey moved that adoption of the Wichita Existing Buildings and Change of Use Code be approved and the Ordinance be placed on first reading. Motion carried 7 to 0.

## ORDINANCE

An Ordinance creating Chapter 18.44 of the Code of the City of Wichita and adopting by reference the "Wichita Existing Buildings Rehabilitation and Change of Use Code (April, 2001 Edition)," introduced and under the rules laid over.

## **HOUSING STANDARDS PROPOSED AMENDMENTS TO TITLE 20 – MINIMUM HOUSING STANDARDS CODE.**

Kurt Schroeder

Superintendent of Central Inspection reviewed the Item.

Agenda Report No. 01-0570.

In 1962, the City of Wichita first adopted a Minimum Housing Standards Code. This Code was created to provide minimum standards for existing residential dwelling units within the City of Wichita, to help ensure decent, safe and sanitary housing for its citizens, and to conserve the existing housing stock. The only significant amendments to the original Code were made in 1990, when a section setting forth minimum exterior maintenance requirements for vacant residential buildings was added.

Over the past year, a Neighborhood Nuisance Code Committee has recommended that the City proceed with suggested amendments to the Minimum Housing Standards Code. In addition, several “Neighborhood Code Enforcement Improvement” focus group sessions with neighborhood stakeholders and staff from various code enforcement Departments/Divisions, which were coordinated by staff from the City Manager’s Office, have supported updating of the Minimum Housing Standards Code.

With input from various stakeholder groups, City staff has completed work on a revised Minimum Housing Standards Code. In March 2001, the proposed amendments were presented to all District Advisory Boards, and all DABs recommended moving forward with review/adoption of the proposed amendments (DAB V expressed some concern about the revised requirement for a minimum of three duplex electrical outlets or two duplex receptacle outlets and a ceiling light fixture in each habitable room, which has since been addressed).

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On March 15, 2001, a draft of the proposed amendments was sent to a number of stakeholder groups, including the Sedgwick County/Wichita Apartment Association, the Institute of Real Estate Management (IREM), Rental Owners, Inc., and Partners for Responsible Neighborhoods.

On April 12, 2001, a presentation was made to the general membership of Rental Owners, Inc., which also included representation from Partners for Responsible Neighborhoods. Most of comments received were supportive, although a couple of minor changes were suggested. Staff has worked with stakeholder representatives to revise language in a manner suitable to both the City and the stakeholders, and has incorporated these minor suggested changes into the proposed amendments.

The proposed amendments have been reviewed by numerous stakeholder groups. Stakeholder groups have indicated their support for the proposed amendments. Below is a summary of proposed amendments to the Minimum Housing Standards Code.

## 20.04.010 Definitions

Twenty-two new definitions have been added to this section, and eight (8) current definitions have been amended for clarification.

Most of the new definitions have been added to clarify terminology which has been used in the body of the Code and subjected to a wide range of interpretation. The new definitions will make enforcement more objective and consistent, and will provide clearer guidance to the courts in their rulings on Housing Code compliance or non-compliance.

Definitions for "workmanlike manner", "good working condition" and "good state of repair" have been added to the Code. This terminology is included to assure that required repairs are made in an proper manner with materials and installations commonly accepted within the applicable building or trade industry.

Current definitions for "Occupant", "Operator", "Owner" and "Roominghouse" have been amended to further clarify these items which have caused problems with interpretation and enforcement in the past.

## 20.04.030 Minimum standards for basic equipment and facilities

In Section (9), a requirement excluding certain types of kitchen counter surfaces has been added as a safety measure to prevent fires.

Section (12) has been added to require that ground level doors and windows are equipped with locking devices.

## 20.04.040 Minimum standards for light, ventilation, electricity and heating

Section (4), which relates to electric supply and connection, has been significantly changed. The requirement for electric wall outlets and/or ceiling light fixtures has been upgraded from at least two separate wall-type electric outlets or one such outlet and one ceiling light fixture in every habitable room, to at least three separate wall-type outlets or two such outlets and one ceiling light fixture in every habitable room. An exception is included to allow only two duplex outlets or one duplex outlet and a ceiling light if the occupant load, electrical load and/or use of the habitable room does not pose a safety concern.

With the vastly increased use of electronic equipment and convenience appliances since the original Code was written in 1962, the current minimum requirement often fails to safely serve most habitable rooms in dwelling units. Without enough outlets, extension cords become overused and unsafe.

Section (4) is also amended to add a specific requirement for smoke detectors (battery operated in existing dwellings built prior to 1976), installed in accordance with the Fire Code and State Law, and to limit the use of extension cords as permanent wiring.

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Sections (6) and (7) are amended to require screens only on those doors or windows actually used for ventilation rather than all windows or doors intended to be used for ventilation.

## 20.04.050 General requirements relating to the safe and sanitary maintenance of parts of dwellings and dwelling units

The exterior maintenance requirements of this section have been greatly expanded and clarified. Specific requirements have been added for structural supporting members; chimneys and towers; roof coverings; soffits, fascias and exterior trim; and paint. Standards for rise and run of steps have been added for porches and stairs, and the threshold for requiring handrails has been modified to require such a handrail on only one side of the steps if there are no more than five (5) risers. The threshold for requiring protective guardrails on stairs has been clarified to require guardrails at stair treads higher than 5' above adjoining grade.

## 20.04.055 Minimum requirements for maintaining vacant dwellings

The exterior maintenance requirements of this section have been greatly expanded and clarified as outlined for Section 20.04.050 above.

Section (11) has been added to specifically require that vacant residential buildings or accessory structures are maintained in a secure condition to prevent entry by children, vagrants or any unauthorized person. This requirement will make failure to secure a structure a code violation which can readily be prosecuted as a criminal offense under the Housing Code in Municipal Court.

A requirement has also been added to stipulate that if a structure is boarded up, a minimum of 3/8" exterior grade plywood shall be used and tightly secured to the window or door frame with screws or nails, or in another manner as approved by the Superintendent of Central Inspection. Such plywood shall be painted to prevent deterioration.

## 20.04.060 Minimum space, use, etc., requirements

Efficiency unit area and minimum space requirements have been added in Section (1).

Minimum area requirements for sleeping rooms has been added in Section (2). Section (2) is also amended to require a minimum openable window area of at least five (5) square feet in any room used for sleeping. This is an important life-safety item for both egress from a sleeping room by the occupant or access into a sleeping room by Fire and rescue personnel.

In Section 3(b), requirements for egress or rescue windows from basement sleeping areas has been added per Board of Code Standards and Appeals adopted policy. The requirement outlines specific minimum egress and rescue window requirements, and allows alternatives to the required minimum window sill height of 44".

## 20.04.070 Responsibility of owners and occupants generally

Several items are added to clarify the responsibility of occupants and owners for insect, rodent or pest extermination. Several items are amended to make occupants responsible for screen damage if installed in any one season, as well as maintenance of smoke detectors (batteries, etc.).

## 20.04.110 Placarding dwellings, dwelling units, etc., in violation of chapter

Section (1) has been added to make it unlawful for any person other than the Superintendent of Central Inspection or his authorized representative to remove a placard from a dwelling, dwelling unit or rooming house or rooming unit. This has not been a violation in the Code, and has not been prosecutable for this reason.

There will be no additional costs to the City associated with the proposed amendments.

The ordinance amendments have been approved as to form by the City Law Department.

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Mayor Knight Mayor Knight inquired whether anyone wished to be heard.

Frank Shofler Frank Shofler spoke in favor of the proposed Ordinance.

Motion -- Lambke moved that the amendments to Title 20 be approved and the Ordinance be placed on first reading. Motion carried 7 to 0.

-- carried

## ORDINANCE

An Ordinance amending Sections 20.04.010, 24.04.030, 20.04.040, 20.04.050, 20.04-055, 24.04.060, 24.04.070, 24.04.080, and 24.04.110 of the Code of the City of Wichita, Kansas, all pertaining to the Housing Code of the City of Wichita, Kansas and repealing the originals of said Section, introduced and under the rules laid over.

(The following two items were taken up later in the meeting; action is shown in Agenda order.)

### TIF - WABA

#### **ESTABLISHMENT OF A REDEVELOPMENT DISTRICT – TAX INCREMENT FINANCING – FOR WICHITA AREA BUILDERS ASSOCIATION. (DISTRICT VI)**

Allen Bell Financial Projects Director reviewed the Item.

Agenda Report No. 01-0571.

On March 27, 2001, the City Council adopted a resolution stating its intent to consider the establishment of a redevelopment district in the north downtown area to be known as the WABA Redevelopment District for the purpose of facilitating the use of tax increment financing. The resolution set 10:30 a.m. on May 1, 2001 as the time for a public hearing before the City Council on this matter. Copies of the resolution were mailed to all owners and occupants of property in the proposed area, and to the Board of Sedgwick County Commissioners and the U.S.D. 259 Board of Education, according to state law.

Wichita Area Builders Association (WABA) is in the process of constructing a new office building at Market and Main between Pine and Murdock Street. The facility will be occupied by the Wichita Homebuilders but is only a part of a longer-range plan to develop the entire block. The new Wichita Area Builders Association building will have 9,500 s.f. and WABA is planning to construct a two-story 10,900 s.f. office facility, plus parking and appropriate landscaping on the remainder of the property. The appraised value of the new building will be approximately \$1.5 million. WABA is requesting tax increment financing (TIF) assistance to assist with acquisition and clearance of a portion of the redevelopment site.

Tax increment financing (TIF) allows the increased property tax revenue that results from the redevelopment of under-utilized property to be reinvested in the redevelopment. When a TIF district is established and a redevelopment plan is adopted by City Council, the increased tax revenue is set aside by the County Treasurer and can be used by the City to repay bonds issued to finance certain improvements that are specified in the redevelopment plan. Under state law, tax increment financing may only be used to pay for public improvements, parking facilities, land acquisition and site work.

The Board of County Commissioners and the Board of Education for USD 259 will have 30 days following the public hearing to determine whether the district will have an adverse impact on them, effectively precluding the use of tax increment financing. If the County and School District approve, the tax increment financing district will be established. It will still be up to the City Council to approve the actual use of tax increment financing by adopting a redevelopment plan for the WABA Redevelopment District that includes tax increment financing. Once a redevelopment plan is adopted and sent to the County Clerk, the tax increment revenue generated by redevelopment will be set aside and deposited into a special fund for its prescribed use.

The establishment of a redevelopment district will facilitate the use of tax increment financing to pay the cost of a portion of public improvements constructed in conjunction with the proposed WABA



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project. Only if the project is approved, a redevelopment plan adopted, and the specific improvements authorized by Council action, will the tax increment revenues generated in the district will actually be utilized.

The ordinance establishing the redevelopment district has been prepared by the City's Law Department. The City Council may amend the proposed boundaries of the redevelopment district at the time of adoption of the ordinance.

Mayor Knight

Mayor Knight inquired whether anyone wished to be heard.

Ms. Kuhlman

Ms. Kuhlman, 706 North Main, Association for Health Care, said she did not consider her building as blighted; the building is kept up. Ms. Kuhlman expressed interest in anything that would affect her property.

Motion --

-- carried

Fearey moved that the public hearing be closed and the Ordinance be placed on first reading. Motion carried 7 to 0.

## ORDINANCE

An Ordinance of the City of Wichita establishing the WABA Development District, introduced and under the rules laid over.

## CONDEMNATIONS

### REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURES.

Agenda Report No. 01-0572.

On March 20, 2001 a report was submitted with respect to the dangerous and unsafe conditions on seven (7) properties. The Council adopted resolutions providing for a public hearing to be held on these condemnation actions at 10:30 a.m. on May 1, 2001.

On March 5, 2001, the Board of Code Standards and Appeals (BCSA) held a hearing on the following properties:

<u>Property Address</u>	<u>Council District</u>
1. 423 South Sycamore	IV
2. 804 West Hendryx	IV
3. 637 South Osage	IV
4. 1041 West Dayton	IV
5. 1921 South Water	III
6. 1959 South Market	III
7. 2510 North Jackson	VI

Pursuant to State Statute the Resolutions were duly published twice on March 24, 2001 and March 31, 2001. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of each described property.

Mayor Knight

Mayor Knight inquired whether anyone wished to be heard and no one appeared on Items 1-5 and 7.

Motion --

Knight moved that, for Items 1-5 and 7, the public hearing be closed; the resolutions declaring the buildings dangerous and unsafe structures be adopted, and the BCSA recommended action to proceed with condemnation allowing 10 days to start demolition and 10 days to complete removal of the structure be adopted. Any extensions of time granted to repair the structure would be conditioned on the following: (1) All taxes have been paid to date, as of May 1, 2001; (2) the structure(s) has/have been secured as May 1, 2001, and will continue to be kept secured, and (3) the premises are mowed and free of debris as of May 1, 2001 and will be so maintained during renovation. If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolutions published once in the official city paper and advise the owners of these findings. Motion carried 7 to 0.

-- carried

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## RESOLUTION NO. 01-181

A Resolution finding that the structure located on Lots 18-19, Kaieser's Second Addition to Wichita, Sedgwick County, Kansas, commonly known as 423 South Sycamore, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight

## RESOLUTION NO. 01-182

A Resolution finding that the structure located on Lots 1 and 3, Osage Avenue, Glendale, an Addition to Wichita, Sedgwick County, Kansas, commonly known as 804 West Hendryx, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight

## RESOLUTION NO. 01-183

A Resolution finding that the structure located on lots 1 and 3, Osage Avenue, Glendale an Addition to Wichita, Sedgwick County, Kansas, commonly known as 637 South Osage, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight

## RESOLUTION NO. 01-184

A Resolution finding that the structure located on the north 90 feet of Lots 2 and 4, on Dayton Avenue, in Glendale, an Addition to Wichita, Sedgwick County, Kansas, commonly known as 1041 West Dayton, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight

## RESOLUTION NO. 01-185

A Resolution finding that the structure located on lots 10 and 12, on Water Street, in English's Ninth Addition to Wichita, Sedgwick County, Kansas, commonly known as 1921 South Water, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight

## RESOLUTION NO. 01-187

A Resolution finding that the structure located on lots 493 and 495 on Jackson Avenue, Rosenthal's Sub-division of Meyers and Snyders out Lots to Wichita, Sedgwick County, Kansas, commonly known as 2510 North Jackson, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight

### 6. 1959 South Market.

Kurt Schroeder

Superintendent of Central Inspection reviewed the Item.

Roy Smith

Roy Smith, property owner, said the property is in probate and requested time to allow completion of probate. Mr. Smith said he could not pay the taxes or sell the property until probate is complete.

Motion --

Lambke moved that the public hearing be closed; the resolutions declaring the buildings dangerous and unsafe structures be adopted; the property be cleaned up immediately; that Mr. Smith meet with Council Member Lambke and the Superintendent of Central Inspection, and that he provide a plan for payment of taxes and repair of the property which Council Member Lambke and the Superintendent of Central Inspection will determine sufficiency; if not sufficient, the BCSA recommended action to proceed with condemnation allowing 10 days to start demolition and 10 days to complete removal of the structure be adopted. Any extensions of time granted to repair the structure would be conditioned on the following: (1) All taxes have been paid as of a date to be determined (2) the structure(s) has/have been secured, and will continue to be kept secured, and (3) the premises are mowed and free of debris and will be so maintained during renovation. If any of the above conditions are not met, the Office of

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-- carried  
Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolutions published once in the official city paper and advise the owners of these findings. Motion carried 7 to 0.

## RESOLUTION NO. 01-186

A Resolution finding that the structure located on lots 37 and 39, on Market Street Alameda Park Addition to Wichita, Sedgwick County, Kansas, commonly known as 1959 South Market, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight

## CITY COUNCIL AGENDA

### APPOINTMENTS

### APPOINTMENTS TO COMMITTEE TO NAME THE PARK AT LONGVIEW AND BLUFF.

Agenda Report No. 01-0596

Residents of the Longview neighborhood have requested that the newly created park in the vicinity of Longview/Bluff area be named and identified after the Longview neighborhood. The City's policy to name public facilities is to establish a Naming Committee to review proposed and possible names and to submit a naming recommendation to the City Council.

The policy of the City is to appoint a Mayor's Advisory Committee comprised of nominees from each City Council District. The policy provides that each Council member nominate one person to serve on the Committee. Nominations are expected to be in writing and include reasons for the proposed naming. It is anticipated that the proposed name of the Park will be reviewed by the Park Advisory Board.

The Longview Neighborhood Association has submitted a petition to name the newly created park located at Longview and Bluff "Longview Neighborhood Park."

No cost to City, other than the expense of making and placing the sign.

Council Policy establishes the procedure for naming public facilities.

Motion --  
-- carried  
Pisciotte moved that the rules be set aside and the Park be named "Longview Neighborhood Park" and the name be forwarded to the Park Advisory Board. Motion carried 7 to 0.

## BOARD APPOINTMENTS.

Motion --  
-- carried  
Martz appointed Teresa Schmidt to District Advisory Board V, and moved that the appointment be approved. Motion carried 7 to 0.

### PROCLAMATION

### PROCLAMATION:

Kaye Myers Day

Motion -- carried  
Knight moved that the Proclamation be authorized. Motion carried 7 to 0.

## CONSENT AGENDA

Motion --  
Knight moved that the Consent Agenda and Addendum Item be approved as consensus Items. Motion

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-- carried

carried 7 to 0.

## BOARD OF BIDS

### REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED APRIL 30, 2001.

Bids were opened April 27, 2001, pursuant to advertisements published on:

2001 contract maintenance area concrete reconstruction Phase 2 - north of 31st Street South, east of Broadway. (472-83346/131532/) Traffic to be maintained during construction using flagpersons and barricades. (District VI)

Barkley Construction - \$93,200.00 (Engineer's estimate)

2001 KLINK (FY2001) asphalt mill and overlay of Kellogg East-Bound Lanes from Webb Road to 127th Street East - east of Webb on Kellogg. (472-83335/132710) Traffic to be maintained during construction using flagpersons and barricades. (District II)

Cornejo & Sons Construction - \$300,000.00 (Engineer's estimate)

Ellson, from the west line of Ellson to and including the cul-de-sac, serving Lots 1 through 4, Block 1, Ellson Court Addition - south of Central, east of Greenwich. (472-83312/765677/490788) Does not affect existing traffic. (District II)

Kansas Paving Company - \$36,746.50

Lateral 467, Southwest Interceptor Sewer to serve Shelly's Orchard Addition - east of Maize, north of Pawnee. (468-83218/468-83251/743868/480556) Does not affect existing traffic. (District VI)

Nowak Construction - \$152,736.00 (Negotiated to Engineer's estimate)

Water distribution system to serve Ellson Court Addition - south of Central, east of Greenwich). - 448-89540/735008/470678. Does not affect existing traffic. (District II)

Nowak Construction - \$10,186.00 (Negotiated to Engineer's estimate)

Knight moved that the contract(s) be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

WICHITA TRANSIT DEPARTMENT: Landscaping Maintenance Services. (160002)

Complete Landscaping Systems, Inc. - \$11,500.00 (Total lump sum)

Knight moved that the contract be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 7 to 0.

## LICENSE APPS.

### APPLICATION FOR LICENSES FOR ADULT ENTERTAINMENT ESTABLISHMENTS/SERVICES:

#### Renewal

Lewis F. Self, Jr.	After Dark Video	2809 North Broadway
Lewis F. Self, Jr.	After Dark Video	7805 West Kellogg
Lewis F. Self Jr.	After Dark Video 3	721 South Broadway

Motion --  
-- carried

Knight moved that the licenses be approved subject to Staff review and approval. Motion carried 7 to 0.

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## Applications for Licenses to Retail Cereal Malt Beverages:

<u>Renewal</u>	<u>2001</u>	<u>(Consumption on Premises)</u>
Kevin Raven	*Taco Tico	8629 Irving
Kevin Raven	*Taco Tico	1303 North Tyler
Kevin Raven	*Taco Tico	560 North West Street
Kevin Raven	*Taco Tico	1118 West Douglas
Kevin Raven	*Taco Tico	911 East Pawnee
Kevin Raven	*Taco Tico	3131 North Rock Road
Kevin Raven	*Taco Tico	603 East 47th South
Kevin Raven	*Taco Tico	3425 East Douglas
Kevin Raven	*Taco Tico	3257 East Harry
Kevin Raven	*Taco Tico	929 North Broadway
Kevin Raven	*Taco Tico	1230 South Rock Road
Gwenda L. Vandaveer	*Tropics Lounge	2705 North Broadway
Juvenal C. Fernandez	*La Mexicana Restaurant	408 West 21st
Don Norton	*LaChinita Mexican Restaurant	1451 North Broadway

<u>New Operator</u>	<u>2001</u>	<u>(Consumption on Premises)</u>
Cheryl Voyles	Midway Oil #4	10409 West Maple
Cheryl Voyles	Midway Oil #1	3448 West Douglas
Cheryl Voyles	Midway Oil #3	4001 South Seneca

\*General/Restaurant - 50% or more of gross receipts derived from sale of food.

Motion -- Knight moved that the licenses be approved subject to Staff review and approval. Motion carried  
-- carried 7 to 0.

## **PLANS AND SPECS. SUBDIVISION PLANS AND SPECIFICATIONS.**

There were no plans and specifications considered.

## **PRELIMINARY EST. PRELIMINARY ESTIMATES:**

a. Lateral 138, Main 4, Sanitary Sewer #23 to serve Jones Park Addition (north of 33rd Street North, east of Arkansas) (468-83048/743819/480507) Traffic to be maintained during construction using flagpersons and barricades. (District VI) - \$18,000.00

b. Taft Court from the north line of Taft to and including the cul-de-sac to serve West Milbrook Addition (south of Maple, east of 119th Street West) (472-83193/765624/490735) Traffic to be maintained during construction using flagpersons and barricades. (District V) - \$46,500.00

Motion -- carried Knight moved that the preliminary estimates be received and filed. Motion carried 7 to 0.

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## PETITIONS

### **STREET PAVING, SANITARY SEWER, AND WATER DISTRIBUTION SYSTEM TO SERVE TARA FALLS AND TARA FALLS SECOND ADDITION – SOUTH OF HARRY, EAST OF GREENWICH.** (District II)

Agenda Report No. 01-0573.

The Petitions have been signed by one owner, representing 100% of the improvement districts.

These projects will provide paving, sanitary sewer and water service to a new residential development.

The Petitions total \$452,000. The funding source is special assessments.

Motion -- carried

Knight moved that the Petitions be approved and the Resolutions be adopted. Motion carried 7 to 0.

#### RESOLUTION NO. 01-192

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89565 (south of Harry, east of Greenwich), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

#### RESOLUTION NO. 01-193

Resolution of findings of advisability and Resolution authorizing construction of Lateral 305, Four Mile Creek Sewer, (south of Harry, east of Greenwich) 468-83244, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

#### RESOLUTION NO. 01-194

Resolution of findings of advisability and Resolution authorizing improving of Tara Falls, from the south line of Michelle to the south line of Lot 42, Block A, Tara Falls Addition; Tara Falls Court; from the south line of Tara Falls to and including cul-de-sac (Lots 31-41, Block A); and Tara Falls Court: from the north line of Tara Falls to and including cul-de-sac (Lots 19-32, Block C), (south of Harry, east of Greenwich) 472-83374, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

### **STREET PAVING AND WATER DISTRIBUTION SYSTEM TO SERVE RIDGE PORT ADDITION – NORTH OF 29TH STREET NORTH, EAST OF RIDGE.** (District V)

Agenda Report No. 01-0574.

The Petitions have been signed by one owner, representing 100% of the improvement districts.

These projects will provide paving and water service to a new residential development.

The Petitions total \$479,000. The funding source is special assessments.

Motion -- carried

Knight moved that the Petitions be approved and the Resolutions be adopted. Motion carried 7 to 0.

#### RESOLUTION NO. 01-195

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89266, (north of 29<sup>th</sup> Street, east of Ridge), in the City of Wichita, Kansas,

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pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

## RESOLUTION NO. 01-196

Resolution of findings of advisability and Resolution authorizing improving of Shadow Lakes, from the east line of Lot 30, Block 6, east to the south line of Northshore Boulevard; and on Northshore Boulevard from the east line of Shadow Lakes, north to the north line of Lot 55, Block 4. Shadow Lakes Ct. (Lots 31-34, Block 6), from the south line of Shadow Lakes south to and including the cul-de-sac; Shadow Lakes Ct. (Lots 37-41, Block 6) from the south line of Shadow Lakes, south to and including the cul-de-sac; Northshore Ct., (Lots 42-47, Block 4) from the west line of Northshore Boulevard, west to and including the cul-de-sac; and on Northshore Ct. (Lots 50-54, Block 4) from the west line of Northshore Boulevard, south and west to and including the cul-de-sac. Sidewalk constructed on both sides of Shadow Lakes from the east line of Lot 30, Block 6 to the south line of Northshore Boulevard; on both sides of Northshore Boulevard from the east line of Shadow Lakes, north to the north line of Lot 55, Block 4, (north of 29<sup>th</sup> Street, east of Ridge), 472-89247, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

## BOARDS MINUTES

### MINUTES OF ADVISORY BOARDS/COMMISSIONS:

Board of Park Commissioners, 2-5-01  
Board of Park Commissioners, 3-12-01  
Board of Park Commissioners, 3-23-01  
Metropolitan Area Planning Commission, 3-8-01  
District VI Advisory Board, 3-5-01  
District VI Advisory Board, 3-21-01  
Wichita Sedgwick County Alternative Correctional Housing Advisory Board, 3-22-01  
Design Council, 3-15-01  
Design Council, 4-19-01  
Design Council addendum, 4-19-01  
Wichita-Sedgwick County Board of Health, Environmental Health Committee, 4-2-01  
Wichita-Sedgwick County Board of Health, 3-8-01  
Wichita-Sedgwick County Board of Health, Emergency Medical Services Committee, 3-29-01  
Police & Fire Retirement System, 2-28-01

Motion -- carried

Knight moved that the Minutes be received and filed. Motion carried 7 to 0.

## STREET CLOSURES

### CONSIDERATION OF STREET CLOSURES/USES.

There were no street closures considered.

## FINANCIAL REPORT

### QUARTERLY FINANCIAL REPORT FOR THE PERIOD ENDING MARCH 31, 2001

Motion -- carried

Knight moved that the Report be received and filed. Motion carried 7 to 0.

## CESSNA AMEND.

### AMENDMENT TO LEASE – CESSNA AIRCRAFT COMPANY. (District I)

Agenda Report No. 01-0575.

On May 22, 1990, the City entered into a lease agreement with Cessna Aircraft Company to rehabilitate the facility located at 2103 East 21<sup>st</sup> Street. Cessna rehabilitated the property with a CDBG loan and has repaid the loan. In 1995, Cessna exercised its option under the lease to continue the lease

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agreement for use of the facility. In 1997, Cessna transferred the sub-assembly and learning center to the new, larger facilities known as the Cessna 21<sup>st</sup> Street Learning and Work Campus on the former Heartspring Campus.

Cessna has requested the City permit the existing lease for 2103 East 21<sup>st</sup> Street continue to permit the facility to be used to support aircraft manufacturing. Cessna is willing to extend the term of the lease for an additional ten years. If the request is approved, Cessna would continue to be responsible for all maintenance, insurance, and taxes, as well as rent in the amount of \$51,072 per year.

Motion --  
-- carried

Knight moved that the Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

## **EASEMENT ENCR.**

### **EASEMENT ENCROACHMENT.** (District II)

Agenda Report No. 01-0576.

The Agreement allows Don and Karla Henry to occupy and construct for 9048 E. Crestwood, improvements on, over, and across the aforesaid public easement described as a 20-ft. easement centered along the west lot line of Lot 13, Block 2, Country Place Estates, hereinafter referred to as Tract "A" and waives all rights of action in law arising out of the encroachment into the easement. The improvement is to be an 8-ft. tall masonry wall constructed along the north and west property lines of said Lot 13, Block 2, Country Place Estates.

The Agreement will allow the City to be held harmless from any and all claims resulting from leaking, cave-in or failure of said sewer line lying within Tract "A" and from claims resulting from replacement or upgrade of lines, manholes, and/or other Department property in the easement.

Motion --  
-- carried

Knight moved that the Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

## **KELLOGG IRRIG.**

### **KELLOGG IRRIGATION SYSTEM.**

Agenda Report No. 01-0577.

On August 15, 2000, the City Council approved the City's 2001/2002 Annual budget. Included in the Park and Recreation Department budget for 2001 was an upgrade of a computerized irrigation system, including hardware, software, and technical support.

The computerized irrigation system required to service cool season turf along the Kellogg Freeway is manufactured by MIR, a company with its main offices in California and Florida. Regionally, MIR irrigation systems are distributed by Interspec, a company located in Oak Hill, Texas.

The owner of Interspec, Steve Pittsinger, installed and programmed all of the original MIR 5000 MS-DOS irrigation software for the City of Wichita when a computerized irrigation system was first purchased and installed several years ago. Mr. Pittsinger is very familiar with the Kellogg irrigation system, and has been supporting it in various forms since 1993.

Efforts to locate other vendors able to provide the hardware, software, and technical support required within reasonable proximity to Wichita have been unsuccessful. Ordinance 35-856, Sec. 2(b) provides authorization for the City Manager to negotiate a sole source contract in situations where specialized services and/or products are required and only one vendor can be identified to provide that product and/or service.

The contract cost is \$13,886.60. Funding is allocated in the City's 2001 Adopted budget.



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Ordinance 35-856, Sec 2(b) authorizes the City Manager to negotiate a sole source contract in situations where specialized services and/or products are required and only one vendor can be identified to provide that product and/or service.

Motion --  
-- carried

Knight moved that the Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

## SENECA CONSTR.

### **CONSTRUCTION ENGINEERING SERVICES FOR SENECA (30TH SOUTH TO CRAWFORD).** (District IV)

Agenda Report No. 01-0578.

On February 8, 1994, the City entered into an Agreement with MKEC Engineering Consultants, Inc. (MKEC) for the design of improvements to Seneca from 31st Street South to McCormick. The Design Agreement with MKEC requires MKEC to provide construction engineering services if requested by the City.

The proposed Supplemental Agreement between the City and MKEC provides for construction engineering services for the landscaping of Seneca from 30th Street South to Crawford. To insure that the landscaping is installed in accordance with the landscape plan and overall design concept, staff recommends MKEC be employed to inspect the landscaping placement and planting.

Payment will be on a lump sum basis of \$7,800 and will be paid by General Obligation Bonds.

Motion --  
-- carried

Knight moved that the Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

## KDOT AGMT.

### **KDOT – LINCOLN BRIDGE OVER FABRIQUE DITCH.** (Districts II and III)

Agenda Report No. 01-0579.

The 2002 Capital Improvement Program includes a project to rehabilitate the Lincoln Bridge over Fabrique Ditch (B-242003), which was approved by the City Council on May 19, 1998.

The Kansas Department of Transportation (KDOT) has agreed to participate in the project funding. The City will take bids for the project. A City/State Agreement has been prepared.

The current sufficiency rating of this bridge indicates that major repairs will be required to help preserve the structural integrity of the existing bridge. Construction is expected to begin next spring.

The estimated project cost is \$720,000. KDOT will pay 80 percent of the cost of construction and construction engineering. The funding source for the City share is General Obligation Bonds.

Motion --  
-- carried

Knight moved that the Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

## DESIGN SERVICES

### **DESIGN SERVICES – METRO EAST BAPTIST CHURCH AND SHOAL CREEK ADDITIONS.** (District II)

Agenda Report No. 01-0580.

The City Council approved the project on March 20, 2001.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements in Metro East Baptist Church and Shoal Creek Additions. Per Administrative Regulation 7a, staff recommends the selection of Baughman because Baughman

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provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment will be on a lump sum basis of \$36,000, and will be paid by special assessments.

Motion --  
-- carried

Knight moved that the Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

## **PERFORMANCE CTR. PERFORMANCE CONTRACTING AMENDMENT.**

Agenda Report No. 01-0581.

Performance Contracting consists of a contractual agreement between a building owner and a Contractor that generally provides building improvements with no cost to the owner. On February 1, 2000, the City Council approved the selection of Control Systems International, Inc. (now known as TAC Americas, Inc. (TAC). On July 18, 2000, the City Council approved funding for the first phase of Performance Contracting in an amount not to exceed \$700,000. Phase I work is limited to City Hall. Phase II has been negotiated with TAC in the amount of \$1,815,540 and will involve forty-seven (47) additional buildings with a guaranteed annual savings of \$250,195.

The Performance Contract will be set up in a manner that TAC will guarantee the City a minimum savings of \$306,990 annually to cover the construction costs. The City will pay TAC an amount of \$39,165 annually during the course of the agreement. Should the savings fall short of the guarantee, TAC will make-up the difference. Should savings exceed the guaranteed amount, the City will enjoy this entire excess savings. The savings would continue to be guaranteed throughout the contract period, which could last up to ten years. The total expenses resulting from the Performance Contract plus the remaining utility costs will be less than is currently being spent on utilities. The total combined anticipated cost of construction is expected to be \$2,500,000. Total combined cost of construction plus monitoring for 10 years is expected to be \$2,856,000. Energy Savings of \$3,070,000 are guaranteed over 10 years, but are expected to be \$3,611,000. The Amended Resolution is in the amount of \$2,700,000.00.

The City will receive the greatest benefit by financing the improvements. Although financing is available through TAC, the City will be able to obtain a more favorable rate in the marketplace. Finally, the debt issuance should not affect capacity in the Capital Improvement Program, since the bonds will be repaid with the operating savings generated from the building improvements

Motion --  
-- carried

Knight moved that the Contract Amendment be approved; the necessary signatures be authorized; and the Resolution be adopted. Motion carried 7 to 0.

## **RESOLUTION. NO. 01-188**

A Resolution amending Resolution No. 00-284 for certain energy saving improvements to various city-owned buildings and authorizing the increase of bonding authority from \$700,000 to \$2.7 million, presented. Knight moved that Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

## **KS COMMUN. SVS. KANSAS COMMUNITY SERVICE PROGRAM ACT APPLICATIONS:**

### **Old Cowtown Museum.**

Agenda Report No. 01-0582.

On July 1, 1994, the State of initiated the Community Service Program Act. This Act authorizes tax credits (from State Income Tax) for cash contributions made to approved non-profit organizations by private business firms, financial institutions and insurance companies. The State of has authorized a total of \$5 million in tax credits (per fiscal year) for eligible projects. Eligible contributors (usually

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private for-profit companies) receive a credit equal to 50% of the amount donated to non-profits. Typically, tax credit proceeds are used for capital projects, either new facilities or expansion of existing facilities, that are one-time in nature. Applications for State tax credits for non-profits are competitive.

Old Cowtown Museum has submitted a request for local government endorsement of its State Non-Profit Tax Credit Application. The proposed project is for a \$300,000, 387 vehicle parking lot including entrance and exit streets, paving, guttering, curbing planter borders, and sidewalks adjacent to the new visitor.

If approved by the State, the contributor is eligible to receive a 50% credit of the cash contribution towards their State income taxes for contributions made to the Community Service Organization during an eighteen-month period from date of the application approval.

The proposed application has no impact on City finances and does not require any City financial participation.

Motion --  
-- carried

Knight moved that the City Council support the application and the appropriate signatures be authorized. Motion carried 7 to 0.

## Big Brothers/Big Sisters.

Agenda Report No. 01-0583.

On July 1, 1994, the State of Kansas initiated the Community Service Program Act. The Act authorizes tax credits (from state income tax) for cash contributions made to approved non-profit organizations by private business firms, financial institutions and insurance companies. The State of Kansas has authorized a total of \$5 million in tax credits per fiscal year, for eligible projects. Eligible contributors (usually private for-profit companies) receive a credit equal to 50% of the amount donated to non-profits. Typically, the tax credit proceeds are used for capital projects, either new facilities or expansion of existing facilities, that are one-time in nature. Applications for State tax credits for non-profits are competitive.

Big Brothers Big Sisters of Sedgwick County has submitted a request for local government endorsement of their State non-profit tax credit application. The proposed project is estimated at \$2,400,000 for the purchase and renovation of the Carlton School Building at 428 South Broadway. The organization plans to create the Big Brothers Big Sisters Mentoring Center which will be the headquarters office for direct service to Wichita and Sedgwick County and provide comprehensive training and technology support statewide. The organization projects that they will be able to directly serve 5,000 Wichita area boys and girls by the year 2005. The center will also enable statewide satellite chapters to help an additional 5,000 youth through professional volunteer training and technology support.

If approved by the State, the contributor is eligible to receive a 50% credit of the cash contribution towards their State income taxes for contributions made to the community service organization during an eighteen-month period from date of the application approval.

The proposed application does not conflict with any local plans, zoning or land use requirements. The endorsement does not obligate the City to fund, supervise or in any way associate itself with the applicant.

The proposed application has no impact on City finances and does not require any City financial participation.

Motion --  
-- carried

Knight moved that the City Council support the application and the appropriate signatures be authorized. Motion carried 7 to 0.

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## ADDENDUM ITEM 21C Inter-Faith Ministries.

Agenda Report No. 01-0595.

On July 1, 1994, the State of Kansas initiated the Community Service Program Act. The Act authorizes tax credits (from state income tax) for cash contributions made to approved non-profit organizations by private business firms, financial institutions and insurance companies. The State of Kansas has authorized a total of \$5 million in tax credits per fiscal year, for eligible projects. Eligible contributors (usually private for-profit companies) receive a credit equal to 50% of the amount donated to non-profits. Typically, the tax credit proceeds are used for capital projects, either new facilities or expansion of existing facilities, that are one-time in nature. Applications for State tax credits for non-profits are competitive.

Inter-Faith Ministries Wichita, Inc., has submitted a request for local government endorsement of their State non-profit tax credit application. The proposed project total is estimated at \$500,000 for the "Building Stronger Families" campaign. The organization plans primarily concentrate on: (1) family group conferencing; (2) Inter-Faith Villa and other permanent housing; (3) Children and Adults Resource Education Center – homeless ministries; (4) Give-A-Lift Program – homeless ministries; (5) Kansas Youth Can Make A Difference Campaign to end childhood hunger; and (6) Mother to Mother.

If approved by the State, the contributor is eligible to receive a 50% credit of the cash contribution towards their State income taxes for contributions made to the community service organization during an eighteen-month period from date of the application approval.

The proposed application does not conflict with any local plans, zoning or land use requirements. The endorsement does not obligate the City to fund, supervise or in any way associate itself with the applicant.

The proposed application has no impact on City finances and does not require any City financial participation.

Motion --  
-- carried

Knight moved that the City Council support the application and the appropriate signatures be authorized. Motion carried 7 to 0.

## **LIEN RELEASES**

### **RELEASE OF HARDSHIP DEFERRAL LIENS.**

Agenda Report No. 01-0584.

During the past year, various property owners applied for Special Assessment Hardship Deferrals to defer payments of special assessments. Each property owner signed a Lien Agreement with the City of Wichita that was filed with Sedgwick County Register of Deeds.

Hardship Deferral Program guidelines state that if property ownership changes or income guidelines are exceeded, the assessment will be paid or put back on the tax roll. Two of the property owners have paid and six property owners are no longer eligible. Those no longer eligible will have the special assessments put on the tax roll for 15 years beginning 2001.

There is no cost to the City of Wichita.

Motion --  
-- carried

Knight moved that the Release of Hardship Deferral Lien Agreements be approved and the necessary signatures be authorized. Motion carried 7 to 0.

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## IRB REDEMPTION

### RC ENTERPRISES INDUSTRIAL REVENUE BOND CALL FOR EARLY REDEMPTION. (District VI)

Agenda Report No. 01-0594.

On November 20, 1990 the Wichita City Council approved the issuance of \$755,000 million in Industrial Refunding Revenue Bonds, Series VI, 1990, for the purpose of refunding certain of the City's outstanding Industrial Revenue Bonds issued to pay the cost of acquiring, purchasing, constructing, reconstructing, remodeling, and equipping certain buildings, and improvement located at 125-129 North Emporia.

Under the provisions of Sections 302 (c) of the Trust Indenture dated November 1, 1990, the City of Wichita on April 5, 2001, received notice from RC Enterprises of its request to exercise the option to call all outstanding bonds.

In connection with the redemption and call, the company has asked that the City allow the Trustee to waive the 45-day notice period so that it can notice the call for June 1, 2001.

Under the terms of the Trust Indenture, the Bonds are subject to optional redemption in whole at the option of the City, upon instructions of the Tenant to make a June 1 call, the Trustee must mail notices no later than May 1.

The Bonds may properly be called as the Tenant has requested, under the terms of the Indenture.

Motion -- carried

Knight moved that the bond call be approved and the notice period be waived. Motion carried 7 to 0.

## RELEASE AGMT.

### RATIFICATION OF RELEASE AGREEMENT FOR GREENING OF WICHITA TANKER TRUCK.

Agenda Report No. 01-0585.

On Tuesday, April 24, 2001, the City accepted title to a truck and tanker trailer from Vulcan to use for watering trees in the Greening of Wichita program. As one of the conditions for the donation, Vulcan required the City to provide a Release Agreement, agreeing that the City has accepted the truck and trailer "as is" and with no warranties, and that the City will not raise any claims against Vulcan in the future arising out of the condition of the property at delivery or its prior maintenance while in the hands of Vulcan. Because of the relationship between agenda deadlines and the schedule established for the delivery and presentation of the truck, there was no time to put the Release Agreement on the City Council agenda in advance of the donation.

Vulcan made the donation of the truck and tanker trailer conditional upon the City's delivery of the signed Release Agreement. The City desired to accept the donated property, and the City Manager executed the Release Agreement to enable the presentation to proceed as scheduled. It is appropriate for the City Council to recognize and ratify that action at this time.

The Release Agreement does not require any affirmative payment or any indemnity by the City of any third-party claims against Vulcan. It does promise that the City will not bring claims against Vulcan as the result of any accident in which the truck may be involved, and this was a condition which Vulcan placed upon its gift.

Motion --  
-- carried

Knight moved that the Release Agreement be ratified and the necessary signatures be authorized. Motion carried 7 to 0.

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## **PARK EQUIPMENT     AMENDING RESOLUTION – PARK PLAYGROUND EQUIPMENT PROGRAM.**

Agenda Report No. 01-0586.

The City's Capital Improvement Program contains an ongoing project to install playground equipment in various parks in the community. On April 28, 1998, the City Council approved the 1998 funding. Donations were subsequently received from interested groups and individuals to purchase additional equipment.

An Amending Resolution has been prepared to incorporate the donations into the project budget.

The original budget was \$40,000 with the total funded by General Obligation Bonds. The new budget is \$50,000 with \$40,000 paid by General Obligation Bonds and \$10,000 by private donations.

Motion -- carried

Knight moved that the Resolution be adopted. Motion carried 7 to 0.

### RESOLUTION NO. 01-189

A Resolution amending Resolution amending Resolution No. 99-496 of the City of Wichita Kansas, authorizing improvements to various City Parks, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Knight moved that Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

## **ORDINANCES**

### **SECOND READING ORDINANCES:** (First read April 24, 2001)

- a)        ZON2000-61 – East of Webb, on the south side of 21st Street North. (District II)

### ORDINANCE NO. 44-962

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by Section 28.04.210, the Code of the City of Wichita, Kansas, read for the second time. Knight moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight. (ZON 2000-61)

- b)        A 01-07 – Annexation of land generally located at the northwest corner of 127th Street East and Central. (District II)

### ORDINANCE NO. 44-963

An Ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto, read for the second time. Knight moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight. (A 01-07)

### **PLANNING AGENDA**

Marvin Krout

Director of Planning said Items 26, 27, and 32 could be considered as consensus Items.

Motion -- carried

Knight moved that Items 26, 27, and 32, be approved as consensus Items. Motion carried 7 to 0.

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**SUB2000-83**  
(Item 26)

**SUB2000-83 – PLAT OF ALFRED'S SUPERIOR TREE SERVICE ADDITION LOCATED WEST OF WEST STREET, SOUTH OF 47TH STREET SOUTH.**

Agenda Report No. 01-0587.

MAPC Recommendation: Approve the plat. (12-0)

A zone change (SCZ-0792) from SF-20, Single-Family Residential to GO, General Office and LI, Limited Industrial has been approved for this site subject to platting. The plat is also subject to a Protective Overlay (P-O #57) established by SCZ-0792 addressing permitted uses and outdoor storage.

A Protective Overlay Certificate was provided identifying the approved Protective Overlay. The site has been approved by the County Health Department for the use of on-site sanitary sewer and water facilities. A petition for future City water services was provided. A Certificate of Petitions has also been submitted.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days.

The Certificate of Petitions and Protective Overlay Certificate will be recorded with the Register of Deeds.

Motion --  
-- carried

Knight moved that the documents and plat be approved; the necessary signatures be authorized; and the Resolution be adopted. Motion carried 7 to 0.

**RESOLUTION NO. 01-190**

A Resolution of findings of advisability and Resolution authorizing construction of Water Distribution system Number 448-89578, (west of West Street, South of 47<sup>th</sup> Street South) in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Ayes: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

**SUB2000-104**  
(Item No. 27)

**SUB2000-104 – PLAT OF WILBUR ADDITION LOCATED ON THE WEST SIDE OF HILLSIDE, SOUTH OF 37TH STREET NORTH.** (District I)

Agenda Report No. 01-0588

Staff Recommendation: Approve the plat.  
MAPC Recommendation: Approve the plat. (9-0)

The plat is zoned LI, Limited Industrial.

The site has been approved by the County Health Department for the use of on-site sanitary sewer and water facilities. Due to the site's industrial zoning, a restrictive covenant was also required assuring that only residential type wastes would be generated until such time as a municipal sewer system becomes available. A petition, 100%, has been submitted for future sewer improvements. A Certificate of Petitions has also been submitted. In order to provide for the ownership and maintenance of the reserves, the applicant has submitted a restrictive covenant.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days.

The Certificate of Petition and restrictive covenants will be recorded with the Register of Deeds.

Motion --  
-- carried

Knight moved that the documents and plat be approved; the necessary signatures be authorized; and the Resolution be adopted. Motion carried 7 to 0.

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## RESOLUTION NO. 01-191

A Resolution of findings of advisability and Resolution authorizing construction of Lateral 103, Sanitary Sewer No. 23 (west of Hillside, south of 37<sup>th</sup> Street North) 468-83256, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Ayes: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

CON2001-00004

**CON2001-00004 – REQUEST FOR CONDITIONAL USE TO ALLOW USED CAR SALES, LOCATED ON THE NORTHWEST CORNER OF HYDRAULIC AND WASSALL.** (District III)

Marvin Krout

Director of Planning reviewed the Item.

Agenda Report No. 01-0589.

MAPC Recommendation: Approve, subject to conditions (10-2).

Staff Recommendation: Deny.

DAB Recommendation: Deny (8-0).

The applicant, Paul Weigand, is requesting consideration and recommendation for a Conditional Use to allow used car sales on property zoned "LC" Limited Commercial. The property (14,782.88 square feet) is described as Lots 10 & 11, Block E, Graber Addition, located on the northwest corner of the Wassall - Hydraulic intersection. Wassall fronts the south side of the property and Hydraulic fronts its east side. Single-family residential development is adjacent to it on its north and west sides. The Unified Zoning Code requires a Conditional Use for vehicle and equipment sales, outside in "LC" Limited Commercial zoning.

The applicant is requesting consideration of used car sales on this property, which contains a vacant 1,500 sq.-ft building to be used as office space and a concrete parking area where he proposes to display the used cars and provide parking for prospective buyers. The site has 4 existing entrances/exits (entrances); 2 on Wassall and 2 on Hydraulic. The applicant has stated that he will close off the 2 entrances that are closest to the Wassall – Hydraulic intersection, leaving the two farthest from the intersection open. This would leave the site with an entrance on Hydraulic and another on Wassall. The remaining entrances would line up with existing entrances of the businesses that are across from it on Wassall and Hydraulic; Louie's Liquor on the Hydraulic side and Quick Trip on the Wassall side. The site has two old light poles (without light fixtures attached) on it, one located on the southwest side of the site and the other on the northeast side of the site. The one on the northeast side of the site is damaged and will need repair or possibly removal. There is grass along the west and north sides of the site.

The neighborhood to the north is zoned SF-6 and has developed residential. There is a 6-ft stockade fence between the proposed used car lot and the residence adjacent to it on the north side. The neighborhood to the west is zoned TF-3 and is developed single family residential. There is a 6-ft. stockade fence that runs the width of the southwest lot adjacent to the proposed site, the next lot north of this lot has no screening between it and the proposed site. On the east side (across Hydraulic) there is Louie's Liquor at the intersection, then north of it Shooter's, a billiards hall. North of these two businesses on the west side there are single family and multifamily residence. Development on the south includes a restaurant on the southeast side of the intersection and a Quick Trip on the southwest side of the intersection. Adjacent to these businesses are two small strip centers containing barber - beauty shops, sandwich shops, insurance businesses, a bingo hall, bars, and restaurants. Beyond these businesses to the Hydraulic – I 135 Loop, there are residence (both single family and 4-plex) and a warehouse – distribution developments.

At the March 8, 2001 MAPC hearing no one spoke against the request. The MAPC recommended approval (10-2) of the Conditional Use subject to the following conditions:



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1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of used cars. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
2. The applicant shall submit a revised site plan giving dimension control of display areas, vehicle circulation, solid screening, ingress and egress, parking areas, queuing areas, dumpsters, landscaping, signs, lighting and showing all easements and set backs for review and approval by the Planning Director, prior to the issuance of a building permit, per City Standards
3. The applicant shall install and maintain landscaping in accordance with the landscape plan submitted with this application. This will require the removal of paving along the sidewalks next to Hydraulic and Wassall.
4. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles so not encroach onto public right-of-way.
5. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.
6. There shall be no use of elevated platforms for the display of vehicles.
7. No amplification system shall be permitted.
8. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
9. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted.
10. The applicant shall erect and maintain a solid six-foot screening along the northern and western property lines that are adjacent to residential zoning and the existing residential development.
11. The applicant shall continue the existing curb along Wassall and Hydraulic onto the two existing ingress – egress that are nearest to the Wassall – Hydraulic intersection. These curbs shall be per City Standards.
12. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

At the April 17, 2001 DAB III hearing several individuals spoke against the request. The MAPC recommended denial (8-0) of the Conditional Use.

Motion --  
-- carried

Lambke moved that having considered the findings of the MAPC and in accordance with Policy 10, the Council concur with the findings of Staff and deny the Conditional use. Motion carried 7 to 0.

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CON2001-00020

## CON2001-00020 – CONDITIONAL USE TO ALLOW USED CAR SALES, LOCATED ON THE SOUTHEAST CORNER OF ZOO BOULEVARD AND WEST STREET. (District VI)

Council Member Fearey participated in the DAB vote and abstained from participation on this Item.

Marvin Krout

Director of Planning reviewed the Item.

Agenda Report No. 01-0590.

MAPC Recommendation: Deny (10-2)

Staff Recommendation: Deny

DAB Recommendation: Deny (8-0).

The applicant, Fierro's Tire Repair, is requesting consideration and recommendation for a Conditional Use to allow used car sales on property zoned "LC" Limited Commercial. The property (approximately 16,000 square feet) is described as Lots 8, Block 4, Golden Garden Addition, located on the southeast corner of the Zoo Boulevard and West Street intersection. Zoo Boulevard fronts the east side of the property and West Street fronts its west side. The Unified Zoning Code requires a Conditional Use for vehicle and equipment sales, outside in "LC" Limited Commercial zoning.

The applicant is requesting consideration of used car sales on this property, which contains an active tire, brakes and muffler repair shop. The applicant proposes to continue the current business and add car and truck sales to it. The site has 3 existing entrances/exits; 2 on Zoo Boulevard and 1 on West Street. The site has an existing building for the current business, of approximately 1,512 sq.-ft. There are 2 canopies (792 sq.-ft each and 10 ½ ft tall) on the site, 1 on the West Street side and another on the Zoo Boulevard side. The applicant proposes to provide 10 marked spaces for the vehicles sales. The applicant proposes to provide 7 spaces for customer parking. There is grass (1,566 sq.-ft) along the north side.

The neighborhood to the north (across Zoo Boulevard) is zoned "TF-3" Duplex and has developed residential. The neighborhood to the southeast is zoned "SF-6" Single-family residential and is developed single family residential. "LC" Limited Commercial zoning and development is adjacent to it on the south, with strip shopping centers and free standing businesses. "B" Multifamily zoning and "GO" General Office zoning, (across West Street) is on the west side, the development is predominately "GO" in nature.

Staff drove approximately one mile from the West Street and Zoo Boulevard intersection and found two car sales lots:

(a) Advantage Edge, at 400 N West Street. This business has been open approximately 60 days. Prior to this current car sales business at 400 N West Street, the Wichita Board of Zoning Adjustments approved an exception to permit used car sales (BZA 22-90) at 400 N West Street, on 12-18-90, with specific conditions for development, to Carco Unlimited.

(b) Another car sales lot is located at located 8th & Murdock on West Street, CON-521. This case was approved by the MAPC on 5-13-99 and returned to the MAPC by the WCC for reconsideration on 6-8-99. The MAPC reconsidered and, again, approved the request on 7-29-99. The WCC denied the request on 8-24-99. On 2-9-00 the District Court of the 8th Judicial District approved the conditional use for a car sales lot at this location.

Besides these existing car sales lots on N West Street (BZA 22-90 & CU 521), there have been two other requests for car sales within approximately a mile of the applicant's site;

(a) CU 524, located on the northwest corner of Murdock and N West Streets, was approved by the MAPC on 6-24-99 and denied by the WCC on 7-20-99.

(b) Con2000-00022, located north of 13th Street N and west of Meridian, was denied by the MAPC on 7-13-00. The WCC returned the request to the MAPC for reconsideration on 8-8-00. The MAPC made again denied the request on 8-8-00 and the applicant decided not to protest the decision.

At the April 2, 2001 DAB VI meeting no one spoke in opposition to the request. The DAB recommended denial (8-0) of the Conditional Use, adding to the Staff report the substantial visibility of

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the proposed car sales lot at the intersection and that the proposed lot would reduce vision and increase distraction for drivers at the busy intersection due to the intensity of the proposed car sales lot on the corner lot.

At the April 5, 2001 MAPC hearing no one spoke in opposition to the request. The MAPC recommended denial (10-2) of the Conditional Use.

The applicant has presented, for the record, five (5) owners (listed in the ownership list) protesting the MAPC's recommendation for denial of the Conditional Use. The owner of the subject property is one of the 5 protesting the MAPC's recommendation for denial. The applicant has also presented a letter protesting the MAPC's recommendation for denial, this letter was prepared and presented by Bill Raymond, PA, attorney at law. These letters of protest do not qualify as a protest petition of the of the Conditional Use request and as such do not require the Wichita City Council to obtain a ¾ vote of all the members of the governing body in regards to approval or denial of this Conditional Use request.

Motion --  
-- carried

Knight moved that having considered the findings of the MAPC and in accordance with Policy 10, the Council concur with the findings of the MAPC and deny the Conditional use. Motion carried 6 to 0. (Fearey abstained)

**ZON2001-00013 AND  
CON2001-00021**

**ZON2001-00013 – ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL TO GENERAL OFFICE; AND CON2001-00021 – CONDITIONAL USE TO PERMIT ANIMAL CARE, LIMITED (SMALL ANIMAL VETERINARY CLINIC), LOCATED NORTH OF WEST CENTRAL, ¼ MILE EAST OF 135TH STREET WEST.** (District V)

Agenda Report No. 01-0591.

MAPC Recommendation: Deny (12-1).  
Staff Recommendation: Deny.  
DAB Recommendation: Deny (7-0)

The application area is a 1.5 acres platted lot located on the north side of west Central, ¼ mile east of 135th Street West. The owners are seeking a zone change from "SF-6" Single-family Residential to "GO" General Office with a Conditional Use to permit "animal care, limited" (small animal veterinary clinic). The site is currently developed with single-family residence with one point of access to Central Avenue. The applicant indicates he would like to convert his garage – approximately 800 square feet – to a small animal veterinary clinic. The garage is located on the east end of the residence. The application area is located next to an "S" curve in Central Avenue. There have been instances where vehicles have failed to negotiate the curve and have ended up on the applicant's property. The applicant indicates that on a typical day his current practice sees 10 – 20 clients a day. He also states he needs only a small sign less than 2 square feet. The only kennels he intends to have will be indoors. Hours of operation are to be 7:30 A.M. to 5:30 P.M. Monday thru Friday.

The applicant's site plan depicts a 4,000 square foot structure with access off Central and with parking located east of the house.

Land surrounding the application area is used either for single-family residential or is in agricultural use. All surrounding property is zoned "SF-6" Single-family Residential or "SF-20" Single-family Residential. There is a pond located west of the house that appears to be part of the Dry Creek drainage system. The closest of these residences is approximately 300 to 400 feet from the home on the application area.

The "Unified Zoning Code" first permits "animal care, limited" in the "GO" General Office district with a Conditional Use subject to the following conditions: No noise or odors shall be discernable at the property line; treatment is limited to dogs, cats and other small animals; and all animals are to be harbored indoors. Parking requirements for "animal care, limited" are 1 space per 250 square feet of space. If the applicant uses only 800 square feet, then 4 parking spaces will be required, one of which must be a handicapped stall. Should the existing home be converted to animal care use, then 16 spaces would be required. All parking and drives must be paved with asphalt, asphaltic concrete or concrete.

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(A more detailed parking plan will have to be submitted and approved by the Zoning Administrator, per Article IV-A 13. Parking lot lighting and screening will also have to comply with code requirements, per Article IV-B.) If this request is approved, the applicant will also need to comply with landscape ordinance requirements.

The Sign Code permits 32 square feet of signage in the "GO" district.

MAPC heard this case on April 5, 2001, and voted 12-1 to recommend denial. The applicant indicated he was trying to semi-retire, and desired to operate a small clinic in his garage. He also indicated that he was having trouble selling the property as a residence due to its location relative to the "S" curve located in Central, just east of his property. He stated that vehicles have failed to negotiate the curve and have ended up on his property. No neighborhood residents were present at MAPC to speak in opposition. However, several neighbors were present at the District Advisory Board meeting to speak in opposition. They indicated that at least three nearby neighborhood associations had voted to oppose the request. Opposition primarily dealt with the introduction of a zoning district and a use that was inconsistent with zoning and uses currently found in the area. Opponents also cited a concern with the potential that if this request was approved, it could increase the likelihood of further re-zonings along this segment of Central.

Council Member Martz      Council Member Martz said the applicant had requested that the Item be returned to the MAPC for reconsideration for Neighborhood Office zoning.

Motion --      Martz moved that the application be returned to the MAPC for reconsideration for Neighborhood Office  
-- carried      Zoning. Motion carried 7 to 0.

**ZON2000-00008 AND CUP2001-00004**      **ZON2000-00008 – ZONE CHANGE FROM MULTI-FAMILY RESIDENTIAL TO LIMITED COMMERCIAL; AND CUP2001-00004 DP-62 AMENDMENT NUMBER 7 – AMENDMENT TO DP-62 CHELSEA STATION CUP TO CREATE PARCEL 13 FOR COMMERCIAL USE, LOCATED ON THE NORTHWEST CORNER OF ROCKHILL AND ROCK ROAD. (District II)**

Motion -- carried      Pisciotte moved that this Item be deferred two weeks. Motion carried 7 to 0.

**ZON2001-00009 CUP2001-00005**      **ZON2001-00009 – ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL TO LIMITED COMMERCIAL AND GENERAL OFFICE; AND CUP2001-00005 – CREATION OF KTP CENTER ADDITION COMMUNITY UNIT PLAN.**

Agenda Report No. 01-0593.

MAPC Recommendation: Approve, subject to platting within 1 year and conditions (12-0).

Staff Recommendation: Approve, subject to platting within 1 year and conditions.

DAB Recommendation: Approve, subject to conditions (7-0).

The applicant is requesting the creation of a Community Unit Plan for the northwest corner of 127th Street East and E. Central Avenue, with the eastern portion of the C.U.P. being zoned "LC" Limited Commercial and the western portion being "GO" General Office. A lake separates the two areas. The corner nearest the intersection of Center and 127th Street East already is zoned "LC". The remaining tract is zoned "SF-6" for the 20 acres in the City of Wichita and "SF-20" for the 25 acres in the unincorporated area being requested for annexation.

The proposed C.U.P. has 14 parcels plus a lake, which is the focal point of the development. Parcel 7 (13.63 acres) is the major parcel for commercial development and is located near the center of the tract. It is ringed by a series of seven smaller parcels proposed for "LC" zoning ranging in size from 0.98 acres to 1.68 acres along Central and K-96. To the west, Parcel 5 (3.95 acres) is proposed for "LC". It is buffered on the north by Parcel 6 (3.21 acres), which is a "GO" parcel and separates the commercial uses from the proposed residential subdivision to the north. Parcels 1-4 are located west of the lake and

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range in size from 1.64 to 4.35 acres. These parcels are proposed for "GO" zoning with residential style architectural character.

Proposed uses are all uses permitted in the "GO" zoning district for Parcels 1-4, and Parcel 6, and all permitted uses in the "LC" zoning district for Parcels 5 and 7-14 except for adult entertainment establishments, mining or quarrying, rock crushing, solid waste incinerators, oil and gas drilling, recreational vehicle campgrounds, and asphalt concrete plants.

The C.U.P. included a 30 percent maximum building coverage and 35 percent floor area ratio for each parcel. Building heights were generally 40 feet; however, the three parcels along K-96 were proposed for 75 feet and the interior office parcel near the residential subdivision was reduced to 35 feet. Setbacks were proposed to be as allowed in the "GO" and "LC" district, however, this is not as stringent as setback requirements for C.U.P.s. No masonry screening wall was proposed where the adjacent property is zoned for residential use. A revised C.U.P. drawing is being prepared to reduce the floor area ratios, increase the setbacks, and reduce the height of the parcels to 35 feet except for those along K-96.

The C.U.P. provides for a site circulation plan, a pedestrian plan to connect buildings to the sidewalk at Central and 127th, and landscaping per the Landscape Ordinance.

The applicant proposes that Parcels 1-4 and 8 share residential style architecture, which might be typically defined as including brick, masonry, wood or composite siding, a double-pitched roof, often with hipped or gabled ends, and generally with a minimum vertical rise of greater than 4 inches for every twelve inches. Parcels 5, 7, and 9-14 are to be developed with a consistent architectural character, color, texture and the same predominant exterior building materials. This requirement was revised to specify predominately earth-tone colors and consistent lighting elements.

The applicant proposes that all signs be in accordance with the Sign Code of the City of Wichita, with maximum square footage of 0.8 feet per foot of lineal frontage on Central and 127th, and be spaced a minimum of 150 feet apart. It does not affirmatively request signage along K-96, which would be allowed by the Sign Code unless prohibited by the C.U.P. The applicant has requested three ground or pole signs at 35 feet in height, with the remaining signs being 20 feet in height, but is willing to reduce this to 20 feet in height for all signs except one that would be permitted at 30 feet in height. The following signs would not be permitted by the C.U.P.: flashing (except time, temperature and other public service messages), rotating and moving signs; portable signs; off-site signs; window display signs with more than 25 percent of the window area.

The intersection of 127th and Central near the K-96 underpass is developing with commercial and institutional uses, including a service station, East Pointe Church of Christ, and the Vyne east of K-96, an assisted living facility. The southwest corner of 127th and Central is approved for a smaller 8-acre commercial development zoned LC (DP-247 127th Retail Center C.U.P.), and the southeast corner is part of the large development approved and being platted, DP-248 Meadowland C.U.P. This portion of the Meadowland is approved as "OW" Office Warehouse zoning.

South of Central near the mid-mile location at Jackson Heights, a real estate office and a hotel have been developed during the past year. The remaining area south of Central is developed with scattered residences. The property to the north of the proposed development has been preliminary platted for residential use as Balthrop 4th Addition. It should be noted that this subdivision has a long street, Tipperary, which is 3/4 mile in length from its terminus to Central or Greenwich. To avoid this long dead-end, it was intended to connect to Central through this development.

District II Advisory Board heard this case on March 5, 2001 and voted (7-0) to approve subject to staff recommendations.

MAPC considered the case on February 22, 2001 and voted (12-0) to deter in order to resolve issues on circulation and access, signage, and building coverage.

On March 8, 2001, MAPC voted (12-0) to approve the C.U.P. and zone change subject to platting within 1 year, annexation, and revised conditions regarding circulation, signage and building coverage.

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Connectivity to the residential subdivision to the north would be provided via a 29-foot street with a 32-foot right-of-way collector type street on the western portion of the C.U.P. One 30-foot sign was permitted on each major street, with the remainder at 20 feet. Building coverage was reduced to 25 % for the office parcels and 30 % for the commercial parcels.

Motion --

Pisciotte moved that having considered the findings of the MAPC and in accordance with Policy 10, the zone change and C.U.P. be approved, subject to the recommended conditions and the conditions of platting; and the Planning Department be instructed to forward the ordinance for first reading when the Plat is forwarded to the City Council. Motion carried 7 to 0.

-- carried

## EXECUTIVE SESSION

Motion --

Knight moved that the City Council recess into executive session to consider consultation with legal counsel on matters privileged in the attorney-client relationship relating to potential litigation, legal advice, and contract negotiations, and the Council return from executive session at 10:35 a.m. Motion carried 7 to 0.

-- carried

RECESS

The City Council recessed at 10:15 a.m. and returned to regular session at 10:35 a.m.

Mayor Knight

Mayor Knight announced that no action was necessary as a result of the executive session.

(The Council returned to take up Items 5 and 6; action is shown in Agenda order.)

Adjournment

The City Council meeting adjourned at 11:00 a.m.

Pat Burnett, CMC  
City Clerk